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Case No. F-0118-16

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the lay-offs violated Article 4 of the parties' collective bargaining agreement since adequate funds for the positions at issue existed in the default budget. The Union alleges that it supported William Sullivan for a seat on the Board of Selectmen in 2005 but he was defeated by Bennett Moore. The Union claims that Mr. Moore then proceeded to retaliate against the Union by, among other things, instituting retaliatory lay-offs. The Union contends that the Town's actions were intended to dissuade union activism and/or were retaliation for such union activism and constituted illegal discrimination and retaliation in violation of RSA 273-A:5, I.

The Town denies the Union's charges and asserts it acted within its management rights pursuant to Article 4 of the parties' collective bargaining agreement when it laid off three firefighters on April 6, 2005 due to lack of funds. In its complaint the Town claims the Union improperly filed a grievance concerning the lay-offs in violation of RSA 273-A:5,II(f).

On July 16, 2007 the Town filed a Motion in Limine to Preclude Evidence of Alleged Political Retaliation. On July 20, 2007 the Union filed a Statement of Specifics as required by PELRB Decision No. 2006-222. The Union is scheduled to file an amended and restated complaint on or before August 10, 2007 and the Town is scheduled to file an answer to the amended and restated complaint on or before September 4, 2007.

The undersigned Hearing Officer conducted a pre-hearing conference on July 26, 2007 at the PELRB offices in Concord.

PARTICIPATING REPRESENTATIVES

For the Union: John S. Krupski, Esq.

For the Town: Elizabeth A. Bailey, Esq.

ISSUE PRESENTED FOR BOARD REVIEW

1. Whether the Town breached Article 4 of the collective bargaining agreement by virtue of the lay-offs at issue?
2. Whether the Town laid off the firefighters at issue in retaliation for or discrimination against the employees for the exercise of rights protected by RSA 273-A:5, I?
3. Whether the Union filed a grievance concerning the lay-offs in violation of RSA 273-A:5, II(f)?

WITNESSES

As listed on the parties' Preliminary Witness list to be filed on or before August 15, 2007.

EXHIBITS

As listed on the parties' Preliminary Exhibit list to be filed on or before August 15, 2007.

LENGTH OF HEARING

The time set aside for this hearing will be one day.

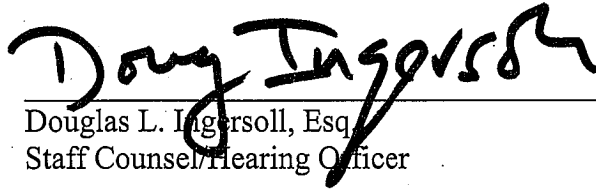
DECISION

1. On or before August 10, 2007, the Union shall file its Amended and Restated Complaint, incorporating the original complaint and the July 20, 2007 specifications in one pleading.
2. On or before August 15, 2007, the parties shall file Preliminary Witness and Exhibit Lists.
3. On or before September 4, 2007, the Town shall file its Answer to Amended and Restated Complaint.
4. On or before September 4, 2007, the Town shall file its Memorandum of Law in Support of its Motion in Limine.
5. On or before September 14, 2007 the Union shall file its Objection to the Town's Motion in Limine and any Memorandum of Law in Support of its Objection.
6. On or before September 14, 2007 the parties shall complete their agreed upon stipulation of facts, including agreed upon use of transcript or portions thereof and exhibits from hearing in cases decided in PELRB Decision No. 2006-011.
7. The parties shall file any amendments to, or deletions from, their Preliminary Witness and Exhibit lists at least five days prior to the scheduled hearing date. The parties shall meet, or otherwise arrange, to pre-mark any exhibits, for identification, prior to the time of hearing and have sufficient copies available for distribution at the hearing as required by Pub 203.02.
8. The parties shall file any additional preliminary, procedural or dispositive motions no later than twenty calendar days prior to the scheduled hearing date and any responses or objections thereto no later than ten calendar days after the filing of such motions.

9. The hearing date will be established by a subsequent hearing notice.

So ordered.

July 26, 2007.


Douglas L. Ingersoll, Esq.
Staff Counsel/Hearing Officer

Distribution:

Elizabeth A. Bailey, Esq.

John S. Krupski, Esq.